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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement* submitted by North South XXI, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 December 2000]

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* This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

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On impunity in relation to economic, social and cultural rights

1. The Commission on Human Rights is to be commended for raising the issue of the impunity of perpetrators of violations of economic, social and cultural rights in its resolution 1999/58 of 28 April 1999, even though some of the major powers had not even ratified the 1966 International Covenant on Economic, Social and Cultural Rights.

2. Some States, and even more so major transnational companies, taking advantage of the effect of concentration, are currently indulging in the limitless exploitation of people and nature, motivated only by the lure of extra profits.

3. It should be recalled that the Preamble to the Universal Declaration of Human Rights considers "fear" and "want" to be the two basic threats to human rights and that the United Nations General Assembly in 1951 had adopted the principle - which was not followed up - of a single Covenant establishing a legal base for human rights, placing civil and political rights on the one hand and economic, social and cultural rights on the other on an equal footing.

4. The 1993 Vienna Declaration on civil and economic rights and the 1995 Copenhagen Declaration on Social Development confirmed the fundamental character of economic and social rights.

5. This recognition of economic and social rights, and their rightful place, must help to tackle the problem of inequalities and the problem of alleviating "the international order of poverty" denounced each year in the UNDP Report on Human Development, and must not be used to recognize the legal personality and rights which transnational companies are trying to acquire in the international order, as indicated in the MAI project (Multilateral Agreement on Investment) as a means of gaining stability and power in the countries hosting their investments.

6. Despite the considerable efforts made, including the use of armed force, to institute official safeguards of civil and political rights (at times even by violating the United Nations Charter) and the fact that an International Criminal Court has finally been established after decades of negotiation dating back to the League of Nations, the very limited progress achieved in terms of economic and social rights is due almost entirely to NGOs, which have been opposing a process of globalization that is more favourable to business than to workers and peoples.

7. Humanitarian interference has never so far encompassed "social interference" motivated by the large-scale violation of social rights by transnational companies. In the food industries, for instance, major agro-industrial groups, assisted by State or inter-State institutions (such as the European Union) have been engaging in acts of "discreet genocide" through an extreme concentration of agriculture in the North, in the process destroying farming in the South and

eliminating the majority of the world's peasant population in the pursuit of "free trade" principles. Owing to the lack of any real controls, agro-industrial groups, as we have seen in the cases of contaminated meat and the export of genetically-modified products, have been able to generate profits at the expense of food security. The same has happened in the pharmaceutical industry, where high concentration leads to dominance of world markets, and opens the way to experimentation without proper safeguards, especially on southern populations.

More generally speaking, the domination of financial markets geared to unproductive speculation limits opportunities for direct investment, especially in the South, and hence the implementation of social rights related to development. Despite the renewed attention given to poverty in the world, organizations like WHO, the IMF and the World Bank remain the "spearheads" of the main economic operators in all markets and are unrepresentative of the concerns of other United Nations organizations.

Whereas "humanitarian" interference and the lessening of political impunity paradoxically favour an overall decline in international law and the hegemony of the major powers, social interference could provide real assistance to peoples at economic and social risk and the much needed regulation of a profoundly "asocial" globalized world economy.

8. The UNDP's human development report lists the effects of a market economy which is incompatible with the implementation of social rights. Each of these effects which is harmful to human rights could lead to the definition of a provable unlawful act.

Unlawful international acts may also be derived from national law. One example is acts which are detrimental to the environment, such as the degradation of nature and human health brought about by the oil companies in Ogoni in Nigeria.

Domestic legislation can also be conducive to illegal financial operations, such as the flight of capital to tax havens (8,000 billion dollars), or money laundering (the turnover in drug trafficking is greater than that of the oil industry), etc. It is essential that international economic relations that are harmful to development should be penalized.

The definition of acts contrary to the principles of labour rights recognized under ILO conventions has already been established.

9. Transnational firms are mostly not multinational. They depend on a very small number of States, regardless of the "nationality" of their branches and subsidiaries. The Major States have undertaken to support their own firms, as is the case at present, for instance, among European institutions. The United States themselves follow the principle that "what is good for General Motors is good for the United States" and vice versa! The MAI project, secretly negotiated under the aegis of OECD, illustrates the tight synergy between developed States and transnational firms.

The traditional responsibility of States could be invoked, and sanctions (which might be chiefly financial) could be used to fund investments to make good any damage. Criminal charges could then be brought against the (real) deciders of the firms responsible for violating economic and social rights by the convicted State itself, which would initiate proceedings against firms which had committed the State's responsibility and caused it to be penalized, all subject to international control.

International social law must be established to govern any asocial conduct of international affairs.

10. Until these radical changes come about, recentering the globalization process on people, even against powerful opposition, resolution 1999/59 must be supported by a working group specifically set up to that effect.